



4191-02U

## **SOCIAL SECURITY ADMINISTRATION**

**[Docket No. SSA-2018-0051]**

### **Social Security Ruling 19-3p; Titles II and XVI: Requesting Reconsideration or Hearing by an Administrative Law Judge**

**AGENCY:** Social Security Administration.

**ACTION:** Notice of Social Security Ruling (SSR).

**SUMMARY:** We are giving notice of SSR 19-3p. This SSR explains the two options available to claimants appealing our determinations that they are not disabled based on medical factors. In this SSR, we explain both the paper and electronic appeal options for requesting reconsideration or a hearing by an administrative law judge (ALJ), and the similarities and differences between these two options. We explain these options to help claimants make informed decisions when deciding whether to use the paper appeal or electronic appeal option to request reconsideration or a hearing.

**DATES:** We will apply this notice on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Alicia Wood-Smith, Office of Income Security Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, 410-965-9243. For information on eligibility or filing for benefits, call our national toll-free number 1-800-772-1213, or TTY 1-800-325-0778, or

visit our Internet site, Social Security online, at <http://www.socialsecurity.gov>.

## **SUPPLEMENTARY INFORMATION:**

Through SSRs, we make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and special veterans benefits programs. We may base SSRs on determinations or decisions made at all levels of administrative adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, or other interpretations of the law and regulations.

This SSR explains that to use the electronic appeal option to request reconsideration or a hearing, claimants must submit all of the information we need to process their appeals at the time they file their electronic appeals. This is required only in our streamlined electronic appeal procedures. Our manually submitted paper appeal procedures remain unchanged. Claimants can upload and submit evidence simultaneously with their electronic appeals. After claimants have filed their appeals, they can submit evidence by fax, by mail, or in-person at one of our field offices or hearing offices as appropriate. A claimant has an ongoing duty to inform us about or submit all known evidence that relates to whether or not he or she is blind or disabled.<sup>1</sup> An appointed representative must act with reasonable promptness to help obtain the information and evidence the claimant

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<sup>1</sup> 20 CFR 404.1512 and 416.912

must submit, and forward the information or evidence to us as soon as practicable.<sup>2</sup>

When a claim is at the hearing level, the claimant, or representative, generally must inform us about or submit all written evidence no later than five business days before the date of the scheduled hearing.<sup>3</sup>

Although 5 U.S.C. 552(a)(1) and (a)(2) do not require us to publish this SSR, we are doing so under 20 CFR 402.35(b)(1). SSRs do not have the same force and effect as statutes or regulations, but they are binding on all components of the Social Security Administration. 20 CFR 402.35(b)(1).

This SSR will remain in effect until we publish a notice in the Federal Register that rescinds it, or we publish a new SSR that replaces or modifies it.

(Catalog of Federal Domestic Assistance, Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004—Social Security—Survivors Insurance; 96.006 Supplemental Security Income.)

**Andrew Saul,**  
*Commissioner of Social Security.*

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<sup>2</sup> 20 CFR 404.1740(b)(1) and 416.1540(b)(1)

<sup>3</sup> 20 CFR 404.935 and 416.1435

## POLICY INTERPRETATION RULING

SSR 19-3p:

### TITLES II AND XVI: REQUESTING RECONSIDERATION OR HEARING BY AN ADMINISTRATIVE LAW JUDGE

**PURPOSE:** The purpose of this SSR is to explain the two options available to claimants appealing our determinations that they are not disabled based on medical factors. This SSR explains both the paper and electronic options for requesting reconsideration or a hearing by an ALJ, and the similarities and differences between these two options. In order to request reconsideration or a hearing using iAppeals, our electronic appeal option, claimants must submit all of the information we need to process their appeals at the time they file their electronic appeals. This requirement is part of our streamlined electronic appeal procedures. Claimants also can upload and simultaneously submit evidence with their electronic appeals. After claimants have filed their appeals, they can submit evidence by fax, by mail, or in-person at one of our field offices or hearing offices as appropriate.

A claimant has an ongoing duty to inform us about or submit all known evidence that relates to whether or not he or she is blind or disabled.<sup>4</sup> An appointed representative must act with reasonable promptness to help obtain the information and evidence the claimant must submit, and forward the information or evidence to us as soon as practicable.<sup>5</sup> When

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<sup>4</sup> 20 CFR 404.1512 and 416.912

<sup>5</sup> 20 CFR 404.1740(b)(1) and 416.1540(b)(1)

a claim is at the hearing level, the claimant, or representative, generally must inform us about or submit all written evidence no later than five business days before the date of the scheduled hearing.<sup>6</sup> Our paper appeal procedures remain unchanged – a claimant still must timely request his or her appeal in writing, but may separately submit the additional information we need to process the appeal. Through this SSR, we are providing information that enables claimants to make informed decisions when deciding whether to use iAppeals or the paper appeal option to request reconsideration or a hearing.

CITATIONS: Sections 205(a) and (b) of the Social Security Act, as amended; 20 CFR 404.907, 404.909, 404.929, 404.933, 416.1407, 416.1409, 416.1429, 416.1433.

INTRODUCTION: Claimants who are dissatisfied with the determinations or decisions on their disability applications may request further review under our administrative review process, also known as our appeal process.<sup>7</sup> The administrative review process consists of three levels: reconsideration, hearing, and Appeals Council review. Until recent years, the only way for claimants to request an appeal was to use the paper-based option, which consists of paper appeal forms. As part of our efforts to offer alternative service delivery options to the public, we developed an electronic appeals system, which

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<sup>6</sup> 20 CFR 404.935 and 416.1435

<sup>7</sup> Section 205(b) of the Social Security Act (Act), 42 USC 405(b); 20 CFR 404.900, 404.907, 404.909, 404.929, 404.933, 404.967, 404.968, 416.1400, 416.1407, 416.1409, 416.1429, 416.1433, 416.1467, 416.1468. See, e.g., Program Operations Manual System (POMS) GN 03101.125 iAppeals - General and Title II Instructions; DI 81007.050 i3441 Disability Appeal – iAppeals; SI 04005.035 iAppeals – Title XVI.

we call iAppeals.<sup>8</sup> After we implemented the iAppeals process, we received some questions about it, and how it differed from the traditional, paper-based process. This SSR explains the differences between the paper and electronic appeal procedures for filing a request for reconsideration or a hearing.<sup>9</sup> Claimants have the option of filing a request for reconsideration or a hearing using either the paper-based option or iAppeals.

#### POLICY INTERPRETATION:

The Act states that a claimant may request an appeal by making “a showing in writing.”<sup>10</sup> Our regulations provide that a claimant who seeks reconsideration or a hearing may do so by filing a “written request” within 60 days after receiving notice of our determination.<sup>11</sup> These regulations give us the authority to establish mechanisms by which a claimant can file the “written request” to appeal a determination. Accordingly, we have determined that a claimant may file a “written request” for appeal using either the paper-based appeals process or iAppeals.<sup>12</sup> While there are some differences between our paper and

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<sup>8</sup> Social Security Ruling (SSR) 96-10p “Policy Interpretation Ruling Electronic Service Delivery,” explains that our electronic service delivery initiatives allow the public to conduct their business in ways that are convenient for them and efficient for both them and us.

<sup>9</sup> Claimants may request Appeals Council (AC) review of administrative hearing decisions by using the HA-520 “Request for Review of Hearing Decision/Order,” the electronic i520, or a separate written request filed at one of our offices or by mail. The differences explained in this SSR are between the paper and electronic requests for reconsideration or a hearing and do not apply to the paper and electronic requests for review by the AC because we do not need the same type of information when processing requests for review by the AC.

<sup>10</sup> 42 USC 405(b)(1) and 1383(c)(1)

<sup>11</sup> 20 CFR 404.909, 404.933, 416.1409, 416.1433

<sup>12</sup> “[T]echnologies allow the transfer of information by other than traditional paper-based methods. SSA is adopting a definition of writing which is consistent with modern legal usage and includes electronic information transfer.” SSR 96-10p.

electronic appeal options for filing a request for reconsideration or a hearing, the substantive standards used to evaluate a claimant's appeal request remain the same regardless of which option the claimant chooses.

### **The paper-based process for requesting a reconsideration or a hearing**

A claimant may file a written request for reconsideration or a hearing by either mail or in-person at one of our field offices. While our rules do not require claimants to use a specific form to request an appeal, the SSA-561 "Request for Reconsideration" (OMB No. 0960-0622) and HA-501 "Request for Hearing by Administrative Law Judge" (OMB No. 0960-0269) collect basic information we need to process the appeal. The SSA-561 and HA-501 request specific identifying information, such as the claimant's name, Social Security number, date of birth, and contact information. The forms also request the name and contact information for any representative helping the claimant with the appeal, as well as the reason the claimant disagrees with the determination. The HA-501 includes space for the claimant to identify sources who can provide additional evidence.

Generally, a claimant also completes and submits the SSA-3441-BK "Disability Report – Appeal" (OMB No. 0960-0144) along with the appeal request. The SSA-3441-BK collects updated information relevant to a claimant's appeal, including:

- The contact information of a friend or relative with knowledge of the claimant's medical condition;
- A description of any change to the claimant's medical condition and any new medical conditions;

- The contact information of and visit dates to all health care providers, and type of treatments, and tests received;
- The name of any medications (prescription or over-the-counter) that the claimant is currently taking, the reasons for taking them, any side effects, and the name of the doctor who recommended or prescribed the medication; and
- A description of any change in daily activities, work, and education.

While claimants do not have to submit the SSA-3441-BK at the time they file their paper appeal requests, a delay in providing the information requested on the SSA-3441-BK impedes our ability to process and forward an appeal request to the Disability Determination Services (DDS) for a reconsideration determination or to the Office of Hearings Operations for a decision by an ALJ. If a claimant does not provide the information requested on the SSA-3441-BK at the time he or she files the appeal request, generally, we attempt to contact the claimant in order to obtain the information before the DDS makes a determination or an ALJ makes a decision.<sup>13</sup>

### **The iAppeals process for requesting reconsideration or a hearing**

A claimant may file a written request for reconsideration or a hearing using iAppeals, our electronic appeal option.<sup>14</sup> When we first introduced iAppeals in 2007, claimants could

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<sup>13</sup> POMS DI 12005.005 – Processing a Reconsideration Request for a Medically Denied Initial Disability Claim; DI 12010.001 – Request for Administrative Law Judge (ALJ) Hearing; DI 12010.005 – Development of Administrative Law Judge (ALJ) Hearing Cases.

<sup>14</sup> Appointed representatives, as well as family and friends, are permitted to use iAppeals to file appeals on behalf of a claimant. An appointed representative seeking direct payment of his or her fee for services performed on the claim has an affirmative duty to use iAppeals. See 20 CFR 404.1713, 404.1740,



submit the electronic disability report form, i3441, “Disability Report – Appeal,” after filing the i561, “Request for Reconsideration,” or i501, “Request for Hearing by Administrative Law Judge.” In 2015, we streamlined iAppeals by merging questions from the standard appeal request forms, i561 or i501, and the disability report, i3441, form, so that all of the information needed to process an appeal is collected and submitted at the same time.

Claimants who choose to use iAppeals to request an appeal must complete the full electronic appeal application in order to file the appeal electronically. Completing the full electronic appeal application requires claimants to answer questions from both the standard appeal request form and the disability report form. However, iAppeals offers several flexibilities for claimants: permitting claimants to leave questions blank if they are not applicable; allowing claimants to indicate that they need additional time to collect specific evidence; and enabling claimants to partially complete an electronic appeal application, save it, and return to finish it later, so long as they return and submit the appeal within the regulatory appeal period. Claimants must file their appeals, whether using the paper or the electronic administrative appeals process, within the 60-day appeal period.<sup>15</sup>

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416.1513, 416.1740; 77 FR 4653; POMS GN 03970.010B.4. This affirmative duty is only for the appointed representative, not the claimant.

<sup>15</sup> Claimants must complete and submit their appeals within 60 days of receiving the notice of determination they are appealing. Claimants who do not submit their appeals within the applicable 60-day period may request an extension of time. See 20 CFR 404.909, 404.911, 404.933, 416.1409, 416.1411, 416.1433. Claimants may request an extension of time on paper or using iAppeals. If a claimant files an untimely appeal via paper or using iAppeals, but does not provide reasons for why the appeal is untimely, we will request a good cause statement before determining whether to process or dismiss the appeal. See POMS GN 03101.010A.2, GN 03101.020, SI 04005.012B, SI 04005.015.

To ensure that claimants understand the requirements for using the electronic appeal procedures to request reconsideration or a hearing, we have included the following aids in the iAppeals screen path to assist them:

- Terms of Service (TOS) Screen - The TOS provides information about the types of appeals that claimants can file in iAppeals, information needed to complete an electronic appeal, and the alternative option to file an appeal request by mail or in-person at the local Social Security Office. The Acknowledgement portion of the TOS requires the claimant or a third party on the claimant's behalf to acknowledge that he or she understands certain information, including:
  - The electronic appeal must be completed and filed within the 60-day appeal period.
  - The "Submit" button within the "Submit" Tab must be selected to file the appeal request with the Social Security Administration.
  - How to submit evidence, both before and after the appeal is filed.
  - When he or she can and cannot re-enter the iAppeals application.
  - How to ensure that the electronic appeal is properly submitted.
  - How to add additional information or change information that has already been submitted.
- Re-entry Number Screen – Claimants who choose not to complete their electronic appeals in one session can use the re-entry number we provide to return to iAppeals to complete and submit their appeals in subsequent sessions. The re-entry number screen explains that the appeal has not been completed or submitted

and that claimants who choose to exit iAppeals before completion must return to iAppeals in order to complete and submit their appeals electronically.

- Submit Tab: Claimants will see the Submit Tab throughout the electronic appeal application path. The Submit Tab remains available to select until claimants complete and submit their electronic appeal. The Submit Tab will not be available once the electronic appeal is submitted.

## **Conclusion**

iAppeals is an efficient and convenient self-service option that allows claimants who are dissatisfied with our determination to electronically complete and submit a request for reconsideration or a hearing. The paper-based administrative appeals process remains available for claimants who wish to use it. While the use of iAppeals promotes our ability to process cases faster, it is the claimant's choice whether to use the paper or electronic administrative appeals process. Claimants can obtain more information about iAppeals and our paper appeal process by visiting our website [www.ssa.gov](http://www.ssa.gov). Claimants can find information about the iAppeals user experience in our Program Operations Manual System at <https://secure.ssa.gov/apps10/poms.nsf/lnx/0203101125>.

[FR Doc. 2019-17359 Filed: 8/13/2019 8:45 am; Publication Date: 8/14/2019]